



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND TAX DIVISION
CIVIL SUIT NO. 252 OF 2014

WILLIAM C. GITHARA

T/A GITHARA & ASSOCIATES ADVOCATES.....PLAINTIFF

AND

BURRELL INTERNATIONAL LTD.....1ST DEFENDANT

MACHARIA PAUL MWITHAGA.....2ND DEFENDANT

PRINCIPAL SECRETARY, MINISTRY OF LANDS,

HOUSING AND URBAN DEVELOPMENT.....3RD DEFENDANT

ATTORNEY GENERAL.....4TH DEFENDANT

RULING ON THE COSTS OF THE SUIT

1. The court has already granted judgement in favour of the advocates, in respect to the taxed costs.
2. The issue that was left unresolved was in relation to the costs of the suit; as the court already awarded costs of the application pursuant to which judgement was granted.
3. It is the prayer of the advocate that the clients should also pay the costs of the suit.
4. However, the clients reasoned that as they had already a portion of the fees before the suit was filed, that means that there had been no need for the advocate to file the suit.
5. The clients further reasoned that most of the reliefs sought had already been spent. The clients also added that the advocates had lost some applications within the suit.
6. When the court makes a determination of an application within a suit, the court is also expected to make a determination on the question of the costs for that application.
7. Therefore, if the advocates lost some applications within the case, presumably the court gave an appropriate order on account of the costs of such application.
8. Thereafter, even if the advocate finally won the suit, he could not then become entitled to the costs

which had been awarded to the opposite party.

9. During the process of taxation, the Taxing Officer would normally satisfy herself whether or not any costs which are being claimed, had been awarded to the party claiming such costs.

10. In this case, the clients have not provided the court with any reason, in law, to warrant a deviation from the standard expectation, which is, that costs shall follow the event.

11. In the event, the costs of the suit are also awarded to the successful party, who is the advocate.

It is so ordered.

DATED, SIGNED and DELIVERED at NAIROBI this 31st day of July 2017.

FRED A. OCHIENG

JUDGE

Ruling read in open court in the presence of

.....for the Plaintiff

.....for the 1st Defendant

.....for the 2nd Defendant

.....for the 3rd Defendant

.....for the 4th Defendant

Collins Odhiambo – Court clerk.